IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1538 of 2007

DATE OF DECISION: 01-02-2007

Satya Wadhwa wife of Sh. SS Wadhwa, Home Science Assistant, O/o Director General, Health Services, Haryana, Sector-6, Panchkula

.....PETITIONER

VERSUS

1.State of Haryana through Financial Commissioner & Secretary to Govt. of Haryana, Health Department, New Civil Secretariat, Sector-17, Chandigarh.

2.Director General, Health Services, Haryana, Sector 6, Panchkula.

.....RESPONDENTS

CORAM:- HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr. DS Rawat, Advocate
for the petitioner.

R S MADAN, J.

The claim of the petitioner is that she was appointed as Home Science Assistant on adhoc basis in the year 1971 and was subsequently appointed as Home Science Assistant through Subordinate Services Selection Board, Haryana on 15-11-1972 in the pay scale of Rs.200-300/-. The said post of Home Science Assistant is an Ex Cadre Post.

On 27-10-1977, the petitioner was eligible to be appointed as Dietician and was appointed as Dietician on adboc basis in the

pay scale of Rs.300-700/- in Civil Hospital, Ambala. In the year 1980, the petitioner was posted as Dietician in Civil Hospital, Ambala, the pay scales of all Haryana Government employees were revised w.e.f. 01-04-1979 and the pay scales of the posts, which were having the pay scale of Rs.200-300/- were revised to Rs.525-1050/-. The Junior Statistical Assistant was also granted the same pay scale of Rs.525-1050/-. The petitioner's post i.e. Home Science Assistant was granted the pay scale of Rs.525-1050/- and one such sanction letter dated 01-12-1983 of the Government for the year 1984-1985 is Annexure P1.

It was in the year 1986 that the pay scales were revised w.e.f. 01-01-1986 so the pay scale of the post of Home Science Assistant was sanctioned in the pay scale of Rs.1400-2600/- vide sanction letter dated 30-11-1987 for the year 1988-89 (Annexure P2). In the year 1988, the Government vide Memo No.23 (128) 79-4HBIII, dated: 06-10-1987 of its own confirmed the post of Home Science Assistant in the pay scale of Rs.525-1050/- with immediate effect along with 13 other posts. The copy of said memo dated 06-10-1987 is attached as Annexure P3. In accordance with the memo dated 06-10-1987, the respondents confirmed all the employees whose posts were mentioned in the said letter dated 16-10-1987. On 20-06-1995, the petitioner was repatriated back to the original post i.e. Home Science Assistant. On joining back on the post of Home Science Assistant, the pay of the petitioner was to be fixed in accordance with the pay scale of Home Science Assistant but instead of fixing the pay scale of Rs.525-1050/- w.e.f. 01-04-1979 and Rs.1400-2600/- w.e.f. 01-01-1986 respectively, it was fixed in the old scale of Rs.480-760/-w.e.f. 01-04-1979

and Rs.1200-2040/- w.e.f. 01-01-1986 respectively. For this pay fixation, no separate orders were passed. Only necessary entries were made in the service book of the petitioner. The petitioner made representation and finally the pay of the petitioner was re-fixed vide orders dated 28-04-2000 (Annexure P5) in accordance with sanction letters P1, P2 and P3. The petitioner stated that after making several representations, order dated 28-04-2000 (Annexure P5) was not implemented, the petitioner got served a legal notice that when the post of Home Science Mistress stands confirmed in the pay scale of Rs.525-1050/- then how the petitioner was continuing in the pay scale of Rs.480-760/- w.e.f. 01-04-1979. She filed a Civil Writ Petition No.10747 of 2006 in the Hon'ble High Court and while disposing of that writ petition on 20-07-2006, the respondents were directed to pass a speaking order on the legal notice within a period of four months from the date a certified copy of the order was received by them. The true copy of the order passed by the Hon'ble High Court is annexed as Annexure P9.

The petitioner further prayed that the act of the respondents in rejecting the claim of the petitioner for pay fixation is extremely arbitrary and without mentioning that how the petitioner is not entitled for pay fixation in accordance with letters P1, P2 and P3. The true copy of the order dated 12-09-2006 vide which the claim of the petitioner for pay fixation was rejected is Annexure P10.

The petitioner thus prayed that a writ in the nature of Certiorari be issued quashing the impugned order dated 12-09-2006 (P-10) vide which the genuine claim of pay fixation of the petitioner in accordance with sanction letters P1, P2 and letter dated 06-10-1987 (P-3) i.e. in the pay

scale of Rs.525-1050/ w.e.f. 01-04-1979/-, Rs.1400-2600/- w.e.f. 01-01-1986 and Rs.5000-7850/- w.e.f. 01-01-1996 with all consequential benefits has arbitrarily been declined. That a further writ in the nature of Mandamus be also issued directing the respondents to fix the pay of the petitioner in accordance with sanction letters P1, P2 and letter dated 06-10-1987 (P-3) i.e. In the pay scale of Rs.525-1050/- w.e.f. 01-04-1979, Rs.1400-2600/- w.e.f. 01-01-1986 and Rs.5000-7850/- w.e.f. 01-01-1996 with all consequential benefits. The respondents should also be directed to grant the petitioner benefit of additional increment in 1992, benefit of Higher Standard Scale w.e.f. 01-01-1994 and ACP Scales w.e.f. 01-01-1996 accordingly.

We have gone through the impugned order Annexure P-10 where the Authorites, Director General Health Services, Haryana dealt with the fixation of pay in his order, the relevant portion of the impugned order is reproduced as under:-

> *"The petitioner was appointed to the post of Home Science Assistant in the scale of Rs.200-300 vide order No.PH/4/71/1147 dated 17-8-71 and services was regularized on 15-11-1972. The Haryana Govt. Finance Department revised the pay scale of its employees vide notification no.GSR-80/Const./Art./309-(1)-80 dated 2.7.80 w.e.f. 1.4.79. The Finance Department revised the pay scale mentioning the designation of each category Department-wise. The post of the petitioner was shown at Sr.No.71 i.e. Home Science Assistant as existing Scale Rs.200-300 and revised scale to Rs.480-760. The Finance Department Govt. of*

Haryana further revised scale of the employees vide notification dated 29.4.1987 w.e.f. 1.1.86 and the pay scale of Rs.480-760 was revised to Rs.1200-2040 and the pay of the petitioner was fixed accordingly w.e.f. 1.4.79 and 1.1.86 respectively. It is clarified that the Govt. of Haryana, Finance Department never revised/modified the pay scale of the petitioner from Rs.480-760 to Rs.525-1050.

The Govt. further introduced the 10th and 20th point scale w.e.f.1.1.91. As per the policy the petitioner was granted one additional increment w.e.f. 1.1.91 and further 2nd additional increment was also granted w.e.f. 1.7.92 on completion of 18th years of regular satisfactory service. The Govt. further introduced the policy of higher standard scale w.e.f. 1.1.94 on completion of 10/20 years regular satisfactory service. As per the above policy the pay of the petitioner was fixed in the scale of Rs.1600-2660. On revision of pay scale w.e.f. 1.1.96 the pay of the petitioner was fixed in the 2nd ACP scale of Rs.5450-8000.

Keeping in view, the above facts and circumstances, I, Dr.NK Sharma, Director General Health Services, Haryana pass the order that the petitioner is not entitled to claim the pay scale of Rs.525-1050 w.e.f. 1.4.79 and Rs.1400-2600 w.e.f. 1.1.86 as per the notification of the Finance Department, Govt. of Haryana. The pray of the petitioner is disposed off."

After going through the order, we find that the Government of Haryana, Finance Department never revised/modified the pay scale of the petitioner from Rs.480-760/- to Rs.525-1050/-. Therefore, her claim was rightly considered by the Authorities and keeping in view the

facts and circumstances of the case of the petitioner, an appropriate speaking order was passed. The impugned order does not suffer from any ambiguity, infirmity or is the outcome of any arbitrariness.

We do not find any merit in this writ petition and the same is hereby dismissed.

(R S MADAN)
JUDGE

(ASHUTOSH MOHUNTA)
JUDGE

February 01, 2007
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